

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICHARD A. NESMITH,)	
)	Civil Action No. 11-426
Plaintiff,)	
)	
v.)	District Judge Terrence F. McVerry
)	
THOMAS LOCOCCO, BEAVER)	Chief Magistrate Judge Lisa Pupo Lenihan
FALLS POLICE DEPT. and CITY OF)	
BEAVER FALLS, PA., et al.)	
)	Re: ECF No. 30
Defendants.)	

MEMORANDUM ORDER

Plaintiff's Complaint was received by the Clerk of Courts on March 31, 2011 and was referred to Chief United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (ECF No. 47) filed on February 14, 2012, recommended that the Motion to Dismiss filed by Defendants at ECF No. 30 be granted and Plaintiff be permitted to amend his Complaint. Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Federal Rule of Civil Procedure 72(b)(2), and Local Rule of Court 72.D.2., the parties had fourteen (14) days from the date of service to file objections to the Report and Recommendation. No objections were filed.

After review of the pleadings, and the documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 5th day of March, 2012,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss at ECF No. 30 is **GRANTED** and Plaintiff shall have 30 days from the date of this Order to file an Amended Complaint as described in the Magistrate Judge's Report and Recommendation at ECF No. 47. If Plaintiff fails to file a curative amendment within the time allowed, Plaintiff's claims against Scott Chichy, Officer David Johnson, and Officer Michael Schlie will be dismissed.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 47) of Magistrate Judge Lenihan, dated February 14, 2012, is adopted as the Opinion of the Court.

Dated: March 5, 2012

BY THE COURT:

s/Terrence F. McVerry
United States District Judge

cc: All Counsel of Record
Via Electronic Mail

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